IN THE COUNTY COURT AT CENTRAL LONDON

CLAIM NUMBER: 043LR151

HHJ SAGGERSON
COURT 62 TMB RCJ
IN PERSON

BETWEEN

ENA AMINU-EDU

Claimant

-V-

ESURE INSURANCE COMPANY LIMITED

Defendant

Mr Alec Hancock (CILEX Advocate) appeared for the Claimant.
Mr James Miller (Counsel) appeared for the Defendant.

JUDGMENT
Handed down electronically with effect from 10.00am on Friday 8 March 2024.
No further attendance is necessary.

Introduction

1. The Claimant brought a claim against the Defendant for damages for personal injury arising out of a road traffic accident on 16th November 2018. The claim began in the MOJ portal. Proceedings were valued at £80,000.00. Before allocation the Claimant accepted a Part 36 offer in the sum of £40,000.00. On the evidence I have considered, this was handsome win.

2. The Claimant's costs not having been paid due to an outstanding dispute, the Claimant applies (20 January 2023) for an Order for payment of fixed costs in the sum of £10,992.00 (inclusive of VAT) pursuant to CPR 45 Section IIIA.

3. The dispute outstanding between the parties is the cost of a pain management medical expert report in the sum of £2,916.00 inclusive of VAT. The sum claimed in respect of this disbursement is inclusive of both the fee of the expert witness *and* the fee charged by the commissioned agency. The Defendant will not accept this amount because the medical agency referral element of this invoice has not been disclosed.

4. So, two applications are before me.

   4.1 The Defendant's application dated 6 June 2022 for Part 18 Information regarding the breakdown (disclosure of a medical agency fee element) of the fee for the pain management medical report.
   4.2 The Claimant's application dated 20 January 2023 for a determination of the Claimant's fixed costs and disbursements pursuant to CPR 36.20(11).

Premex – The Medical Referral Agency

5. The agency ("Premex") by letter dated 23 March 2023 to the Claimant's solicitors has decided not to disclose to either the Claimant's or Defendant's solicitors what proportion of the total fee is attributable to the commissioning agency's charges. Premex's decision is based on commercial sensitivity and on the proposition that: *"It is not our practice to provide breakdowns of our fees. There is no obligation, and it is not necessary, to provide a breakdown in order to assess the reasonableness and proportionality of the fee claimed".*

6. It is also of note that Premex states: *"The [fee] is not calculated on a case-by-case basis and full consideration of any breakdown provided would require a detailed and complex analysis of the macro economics of the wider medical reporting market, which is disproportionate ...".* I take this to mean that the process of working out the agency's commission or charges would be disproportionate rather than a reference to wider medical market charges being disproportionate. "*Macro-economics*" seems a bit grandiose.

7. It is not entirely clear in comparison to what the process of breakdown is thought to be disproportionate. Is this intended as a reference to the disproportionate cost incurred or effort or resources of the agency deployed or all three? Alternatively, if by this Premex means that the cost, effort and recourses invested in doing *something* are greater than doing *nothing*, one might be constrained to agree. Premex can't mean this because the result of any expenditure in litigation would be disproportionate. They must mean that the investment of time, energy and money in disentangling their agency fee from the total is disproportionate (out of all reasonable proportion) to the value, importance and complexity of the action and the other costs of the litigation.

8. If Premex means the latter, it is something of a question-begging proposition. The submission that the process of disentanglement is disproportionate is based only on the shaky foundation that it is disproportionate "*because we say so*". There is no evidence other than this assertion. No doubt the production of evidence itself would have been disproportionate.

9. There are other curiosities. If the agency fee is not calculated on a case-by-case basis (or by the application of some complex averaged percentage of notional value), but on some reference to "*macro-economic*" factors, the spectre is raised that in some cases – particularly lower value cases – the agency fee (and thus the total disbursement) is *inevitably* disproportionate in the alternative sense identified above. This is because the agency fee must be configured across the agency's business as a whole. For the individual case and the *individual paying party* this seems to be the very antithesis of proportionality and looks more like taxation. Lower value cases are subsidising higher value cases.

10. I did not hear any submissions on "*commercial sensitivity*". There is nothing in it. The commissioning party and the paying party, in my judgment, are entitled to know how much the doctor is charging and how much the agency is charging. If transparency drives down prices by generating competition, so much the better.

Proportionality & Transparency

11. If, as the Claimant in this case recognises, after a detailed navigation of the Rules, the court is still left with the issue of whether the overall, composite medical expert's fee (inclusive of agency fee) is reasonable and proportionate, it is difficult to see how such an evaluation can be undertaken without knowing what the component parts of the overall fee charged are.

12. For example, in an action with a notional value of £50,000.00 a doctor might charge £3,000.00 for an expert's report. Due to "*macro-economic*" factors the agency fee applied might be £2,000.00. The bill is £5,000.00. In deciding whether this amount is proportionate the paying party and the court is entitled to know what the component parts of the total are. One component may be proportionate and the other not (more likely both are not) – making the whole disproportionate. Just as importantly, the receiving party is entitled to know why the fee has been reduced on grounds of disproportionality.

13. In my judgment, transparency is a matter of some importance, not least of all because commissioning solicitors should, and are certainly entitled to, assess the reasonableness of the agency fees rather than simply (metaphorically) shrugging and saying: *"that's the system"*, assuming someone else will pay for it. This would be, and is, a recipe for fee-farming by the agencies and is to be deplored.

14. I do not accept that the application of bare percentages is helpful. Some might reluctantly be prepared to accept that a medical expert's fee of 10% of the notional value of an action was proportionate in arithmetical terms – and in lower value claims one might expect the medical expert's fees to be a greater proportion of the notional value of the action. The medical evidence may be pivotal, essential and sometimes even decisive. All these factors are part of the proportionality picture. The approach to an agency commission is entirely different. If the total of 10% itself comprises an agency fee component of 50% (i.e. 5% of the notional value) the landscape is entirely changed. Whatever might be considered proportionate for "medical value" is not capable of adjudication without knowing what that figure is. The "medical value" of the total charged may be important as a matter of proportionality, but the administrative value of the commission in the undivided total is less so (but certainly not valueless).

15. Taking a prosaic example. If someone was interested in booking a hotel, they might consider a nightly charge of £1,000.00 reasonable and proportionate to the quality of the accommodation and the services available. When asked for a 50% booking fee of an additional £500.00 they may be less inclined to think so. Such a person would obviously look for another means of securing the accommodation at the proportionate accommodation price without being fleeced by the commission agent. Transparency reveals the underlying or integral disproportionality. When faced with a charge of £1,500.00 the punter considers the whole disproportionate. If that same person books for £1,000.00 and *later* discovers that the booking agent got £500.00, I venture they would consider the (administrative booking) cost disproportionate as part of the whole, thus rendering the whole unreasonable. Not to put too fine a point on it, that person would feel cheated. Naturally, if someone else is paying, who cares?

16. This little micro-industry of unknown and unknowable commissions or referral or arrangement fees underscores the risk that litigation is pursued in the interests of an economic ecology far removed from the interests of justice or the protagonists. This is not an unknown problem. The racket that is claims for "Hire Charges" illustrates how this sort of remote ecology can get completely out of hand to the benefit of nobody but lawyers and insurance companies.

17. In my judgment, any adjudication on proportionality, in all its various component parts, demands transparency. Such an adjudication should not be hijacked by empty grandiloquent protestations of "*macro-economic*" factors. The unavoidable suspicion is that the absence of transparency indicates that the agencies have something to hide. I entirely exclude from my thinking any unworthy suspicion that cross-commissions ("back-handers") are in play in this process. If I am wrong, the agencies will no doubt be pleased to demonstrate so.

18. I do not consider it unreasonable that a paying party – even an insurance company – should know what it is paying for and to whom.

19. In the absence of transparency, the courts' powers to control costs in the various ways applicable to the "Any-Track" become a mockery.

20. I reject the idea that inclusive costs (medical + referral fee as an undivided sum) can always be considered as a whole as a percentage of the recovered value in an action or otherwise as part of a broad-brush assessment. I reject the idea that such a process is *ever* justified. This grimly arithmetical approach does violence to the very concept of multi-factorial proportionality [CPR 44.3(5)]. If proportionality was only about money a successful personal injury claimant with neck ache for 12 months could never recover costs exceeding £2,000.00.

21. I also reject the notion that identifying the administrative fee within the undivided expert evidence invoice is a process of such fiendish complexity as to defy clarification – even in general terms. If, in the unlikely event that it is, the agency fee must be redolent with the stench of presumed disproportionality. I do not accept that, however sophisticated the algorithm, it cannot be reduced to a tolerable explanation even for a judicial bonehead like myself. If it is so complex, it is time that it wasn't.

The Rules

22. Nonetheless, if the Rules require a result different from that likely to be derived from my general observations, the Rules must be honoured.

23. The consequences of accepting a Part 36 offer are spelt out by CPR 36.13 which provides:

> *Costs consequences of acceptance of a Part 36 offer*
> *36.13—(1) Subject to paragraphs (2) and (4) and to rule 36.20, where a Part 36 offer is accepted within the relevant period the claimant will be entitled to the costs of the proceedings (including their recoverable pre-action costs) up to the date on which notice of acceptance was served on the offeror.*

Rule 36.20 makes provision for the costs consequences of accepting a Part36 offer in certain personal injury claims where the claim no longer proceeds under the RTA or EL/PL Protocol.) This provides for the costs consequences that flow from the acceptance of the part 36 offer. It does not make any order and so there is no right to commence assessment proceedings. It is clear from the wording of r. 36.13(1) that a distinct approach is taken to the fixed costs regime because the whole operation of r.36.13 is made subject to r.36.20.

24. Therefore, for cases falling within CPR 36.20 one must apply CPR 36.20 which provides.

> Costs consequences of acceptance of a Part 36 offer where Section IIIA of Part 45 applies:
> *36.20 —(1) This rule applies where—*
>
> *(a) a claim no longer continues under the RTA or EL/PL Protocol pursuant to rule 45.29A(1); or*
> *(b) ….*
>
> *(2) Where a Part 36 offer is accepted within the relevant period, the claimant is entitled to the fixed costs in Table 6B, Table 6C or Table 6D in Section IIIA of Part 45 for the stage applicable at the date on which notice of acceptance was served on the offeror.*
> *(3) ……*
> *(10) Fixed costs shall be calculated by reference to the amount of the offer which is accepted.*
> *(11) Where the parties do not agree the liability for costs, the court must make an order as to costs.*
> *…*
> *(13) The parties are entitled to disbursements allowed in accordance with rule 45.29I incurred in any period for which costs are payable to them.*

25. CPR 36.20 creates a regime whereby the Claimant has an entitlement to costs and quantifies those costs in accordance with Tables 6B to 6D. Because the costs are fixed, there is not usually a requirement for an assessment of costs.

26. In relation to disbursements, CPR.36.20(13) specifically permits the parties to recover disbursements in accordance with CPR 45.29I. This provides:

> Disbursements
> *45.29 I—(1) Subject to paragraphs (2A) to (2E), the court—*
> *(a) may allow a claim for a disbursement of a type mentioned in paragraphs (2) or (3); but*
> *(b) will not allow a claim for any other type of disbursement.*
> *(2) In a claim started under the RTA Protocol, the EL/PL Protocol or the Pre-Action Protocol for Resolution of Package Travel Claims, the disbursements referred to in paragraph (1) are—*
> *(a) the cost of obtaining … expert medical reports … as provided for in the relevant Protocol*
> *…*

(h) any other disbursement reasonably incurred due to a particular feature of the dispute.

27. The approach (and only approach) available to a party seeking to invoke the power of the court to make an order in cases to which Section IIIA of CPR 45 applies is to make an application under CPR 23 as each party has done in this case in their different ways.

28. First in time the Defendant sought a breakdown of the medical and agency fees within the overall sum by the mechanism of a Part 18 request and application. Before issuing this application, the Defendant had been informed that the breakdown information was not in the Claimant's possession or control. The Claimant later applied by CPR 23 application notice for a determination of the disbursements payable by the Defendant effectively only in respect of the disputed pain management expert invoice in the sum of £2,916.00. Had the Claimant's application come first, the issue could have been resolved within the CPR 36.20 framework. So, both applications concern the same thing.

29. As a matter of principle medical agency fees are recoverable (*Stringer v Copley* [2002] 5 WLUK 977 (HHJ Cook)). This proposition is not at stake in the present case.

The Claimant's Submissions

30. It is submitted on behalf of the Claimant by Mr Hancock that:

30.1 The fixed costs regime is self-contained and self-consciously outside the indemnity principle and not related to any actual work carried out thus, drawing distinctions between medical costs and agency fees is not necessary;
30.2 It is deliberately designed to obviate the need for hearings such as this and minute consideration of the component parts of various disbursements;
30.3 It is a "swings-and-roundabouts" regime;
30.4 It applies to the obtaining of medical evidence such as has given rise to the disputed disbursement in this case;
30.5 CPR 44.3(5) specifies factors informing how proportionality is to be assessed.
30.6 Whilst the court has the power to assess proportionality in respect of the disputed charges it does not need the breakdown demanded by the Defendant and should make an assessment briskly on a broad-brush basis by, for example, (but not limited to) a comparison of the percentage proportion of the entire disbursement with the value of the action (as compromised) – in the same way as would a judge at the conclusion of a Fast Track trial;
30.7 This court should avoid erecting barriers to the implementation of a regime designed to provide quick and straightforward rules to applied by the parties without argument.
30.8 Wielding the broad brush, in any event, this court should designate the relevant charges as proportionate in all the circumstances without demanding the breakdown the Defendant seeks.
30.9 CPR 45.29I(2A)(c)) indicates by comparison the only situation where a breakdown could be required.

31. I extract the following from Mr Hancock's informative skeleton argument as a matter of courtesy. In *Doyle v M&D Foundations & Building Services Limited* [2022] EWCA Civ 927, Phillips LJ considered the position on whether fixed costs and disbursements, were subject to summary or detailed assessment:

> *i) As referred to above, the provisions as to detailed assessment in rule 44.6 make it clear that such assessments do not apply to the fixed costs regime set out in Part 45.*
>
> *ii) Those provisions were referred to by Master Leonard (sitting in the Senior Courts Costs Office) in striking out a Notice of Commencement of detailed assessment proceedings in Nema v Kirkland [2019] 8 WLUL 301 (see [53]). At [54] Master Leonard held that a party seeking determination of the number of disbursements should do so by an interim application under rule 45.29H, which provided for fixed costs of such application, rather than by the more expensive process of detailed assessment.*
>
> *iii) In so holding, Master Leonard relied on the unreported decision of Master Howarth in Mughal v Samuel Higgs & EUI Limited (SCCO unreported, 6 October 2017), also striking out a Notice of Commencement of detailed assessment proceedings. Master Leonard summarised Master Howarth's reasoning as follows:*
>
> > *"…the whole purpose of the fixed costs regime was to avoid the necessity of either summary or detailed assessment. It was not open to the claimant to draft a bill of costs and use the detailed assessment procedure, so increasing costs in proceedings where fixed costs were meant to apply… the appropriate course, in fixed costs cases, was for an application to be made to the court."*
>
> *iv) Part 45 provides an entirely self-contained regime for fixed recoverable costs (including disbursements specified in rule 45.29I), separate and distinct in all respects from assessments under rule 44.6(1), whether summary or detailed.*

Discussion

32. I don't disagree with any of this, but *Doyle* is not directly on point, and as Mr Hancock has explicitly recognised when it comes to proportionality in the context of the disputed disbursements in this case the court not only has the power to determine proportionality, *but he invites the court to so determine*.

33. I also note *Stringer* (above) – a case on detailed assessment - that HHJ Judge Cook determined that the element of a medical report fee note which pertained to the medical agency's costs of obtaining the report was recoverable '*provided it is demonstrated that their charges do not exceed the reasonable and proportionate costs for the work if it had been done by the solicitors'.*

34. With respect I don't disagree with this either. However, I do not regard it as supporting the Claimant's (or Premex's) case. On the contrary, Judge Cook sanctions the recovery of agency fees in principle subject to it being demonstrated that the charge is (reasonable and) proportionate. Proportionality, he thought, being assessed in comparison to what a solicitor would charge for doing the same work. Nobody has demonstrated any such thing in the present case.

35. I was referred to a number of other non-binding cases in what Mr Hancock described as the "*battle of the transcripts*" including the illuminating judgments of DJ Clarke (as a Regional Costs Judge) in *Fox v Lancashre & South Cumbria NHS Foundation Trust* (22 November 2022) and DJ Avent in *Azez v Chan* (30 June 2020).

36. Mr Hancock's peroration on behalf of the Claimant is to this effect:

> *"As a self-contained set of rules, the determination of what is reasonable and proportionate for a disbursement in a case subject to Part 45 should be consistent irrespective of what stage the determination takes place. This is keeping with the purpose of the fixed cost regime providing certainty and avoiding satellite litigation. This would mean irrespective of when the determination occurs. This could upon application following settlement at Stage 2 in the MOJ portal, at a Stage 3 hearing, at the conclusion of a fast track trial. To ensure certainty, there cannot be a position where a Claimant would have an increased burden to prove a disbursement was reasonable and proportionate if they settled compared with proceeding to a final hearing (whether that be a Stage 3 disposal or fast track trial). It is submitted that when the Court considers a medical report fee to be the cost of obtaining the report, the Court need only assess the figure as a whole in light of CPR 44.3(5). Although a Defendant would be entitled to adduce evidence at the relevant time in support of submissions to the contrary (such as the going rate of expert reports from a range of medical agencies), any imposition that the Claimant is required to obtain evidence (such as a breakdown) would undermine the principle of the fixed costs regime".*

37. I am all in favour of consistency, but I consider the Claimant's propositions to be flawed. Consistency would be achieved at all stages and for all types of case if the agency fee was disclosed, just as if it were not disclosed. There need be no difference between those cases where the Claimant settled and other cases. I am not persuaded by the argument that *because we don't, at the moment do it in other types of case, therefore, we don't have to do it at all.*

38. It may well be that there would remain many cases in which the undivided disbursement was so obviously proportionate that Defendants and the court alike would consider a summary determination of proportionality perfectly appropriate without a breakdown. There will be other cases in which a Defendant decides to let the point go.

39. It is for the Claimant to establish proportionality. The agencies can also do this. If required to do so the "market" will soon adjust to cooperate with the Claimant's solicitors in this regard in providing the necessary information. I am a little surprised that Claimant's solicitors do not want this information themselves as a condition of using the agency services.

Conclusions

40. I draw the following propositions from the above.

    40.1 In principle medical agency fees are recoverable [CPR 45.29I and 2(a)]. It is referrable to the obtaining of medical reports within the relevant Protocol.
    40.2 If the amounts are not agreed, it is necessary for the Claimant to make a CPR 23 application for a determination by the court of the claimed disbursement.
    40.3 On such a determination the principles of proportionality are engaged.
    40.4 In considering proportionality the court is entitled to consider what the fees are that are attributable to the medical referral agency.
    40.5 The court is unlikely to be able to adjudicate on proportionality (or it will be more difficult to do so) without being able to determine whether the relevant fee is in proportion to that which would have been charged by a solicitor doing the work in conjunction with all the other factors that inform proportionality.
    40.6 In the absence of agreement or a summary determination of the court in an obvious case, the paying party is entitled to know who is being paid what and what for.
    40.7 The court is entitled to require transparency from those whose fees form part of claimed and potentially recoverable costs.
    40.8 The court is entitled to bear in mind in costs management terms that whilst the sums involved in individual cases may be small, the commercial value of the entire market to the agencies is enormous.
    40.9 Despite protestations to the contrary, medical agencies should be able to provide at least sufficient indicative information as to the proportion of the medical invoice that reflects the true value of their commission.
    40.10 "Commercial sensitivity" does not override these considerations. Transparency is just as likely to produce a more competitive market, and in any event, commercial sensitivity does not have any impact on proportionality.
    40.11 Transparency is no more likely to impede the brisk application of fixed costs regimes than obfuscation.

41. How is a requirement of transparency to be enforced?

Part 18 - Enforcement

42. I am unmoved by implicit threats that all this would demand resort to non-party disclosure applications and satellite litigation or even detailed considerations of whether the relevant information was within the control of a Claimant in the sense that the Claimant has the right to obtain the relevant documentation from the medical referral agency.

43. The Claimant (or her advisers) can use agencies that are prepared to be transparent rather than those who are not. Alternatively, the work can be done in-house as it always was. It seems to me to be that it would be an enfeebled court system that buckled under any suggestion that a non-transparent cartel would simply withdraw its services *en mass* from the market if required to be open. The agencies may be cheaper than in-house services in which case the agencies should not hesitate to tell us and should be displaying their proportionality for all to see.

44. As a last resort there is no reason why a Defendant should not adopt the course taken here by means of a Part 23 application for Part 18 Further Information. Part 18 is drawn widely enough to cover such an application. If the Claimant's advisers do not know the answer, they should. It may be possible to extrapolate an answer or a sufficient indication from professional fees charged by medical experts not chained to referral agencies. In the final analysis an Unless Order for the provision of the necessary breakdown would encourage the cooperation of an agency under the threat that otherwise the determination of the relevant medical invoice would be either "nil" because proportionality cannot be conscientiously assessed (see the judge's alternative in *Fox* above) or significantly reduced out of an abundance of caution – the Claimant having failed to show that the disbursement as a whole is proportionate.

45. A proportionate Order or sanction pursuant to a Part 18 Request may be to the effect that unless the breakdown information is forthcoming then the recoverable fee is determined to be X% of the undivided figure on the basis that proportionality indicates that *something* is recoverable (for the medical fee and the agency charge), but it is impossible to make a more precise assessment.

Assessment

46. After all that, I am invited to undertake a determination in the present case. I do so in the context of the type of Order I foreshadowed in paragraph 45 above.

47. I have read the report of Dr Sanders. It is very straightforward. It adds little to the fund of information available from the Claimant herself. He recommends a yet further report from a psychiatrist. It does not seem to have stretched his expertise or exercised his speciality to any great extent. It cannot have taken long to prepare given the experience revealed in his CV. This is only one of 150 reports he writes a year. Most are apparently relevant to "complex" cases of which this was not one. The injuries within Mr Sander's speciality are not severe.

48. As I cannot assess proportionality with reference to any percentage of the £2,916.00 referrable to the agency fee in comparison to, for example, a solicitor's cost in undertaking a referral role or the element of the settlement attributable to this aspect of the injuries (which I do not know), I have to err on the side of caution.

49. I reject the submission that £2,916.00 is *prima facie* proportionate to a claim valued at settlement in total at £40,000.00. The Claimant must pay the price of a lack of information. This is not a punitive approach but recognises how an assessment of proportionality is hampered by lack of transparency.

50. The report of Dr Sanders (including examination and review of records) must have cost something and the recoverable agency fee will not be nil. To assess it at "nil" (the *Fox* alternative) would be an unduly harsh sanction.

51. Accordingly, doing the best I can, I will Order that unless the breakdown information is forthcoming the Claimant's costs in respect of the disputed disbursement be limited to £750.00 plus VAT making a total of £900.00.

52. The balance of the fixed costs not in dispute should also be paid, although I have to say that the arithmetic in the Claimant's application notice did not make a lot of sense. This was later clarified.

Further Steps

53. I indicated that I would receive written submissions on the costs of the 2 applications at the same time as editorial corrections. I circulated this Judgment in draft for that purpose with the conventional limited circulation in mind. The deadline for both costs submissions and editorial corrections was 4.00pm on 5 March 2024. I said I would then hand down the Judgment and a finalised Order electronically without the need for further attendance.

54. I gave provisional costs indications in the draft Order I circulated. Since then, I have received from each side additional written submissions on costs and other ancillary matters. I accept that the amounts set out in the Statements of Costs are broadly reasonable and proportionate.

Costs

55. The 2 applications are closely linked. I have concluded that transparency is an integral part of the proportionality assessment but that lack of transparency does not prevent the court from making a cautious assessment of something more than "nil". That is what I have done. The result is, therefore, something of a hybrid. Such a cautious approach as I have adopted applies "unless" a breakdown is forthcoming. No interim payment was offered in respect of the balance of the costs due to the Claimant and, whilst some offers of settlement were made (£14,310.00 inclusive of a greater Sanders' disbursement), the recoverable fixed costs by the Claimant are greater than any offer.

56. Unfortunately, there were a number of hearings, including an aborted remote hearing. I don't consider that this state of affairs can be attributed to any procedural fault on the part of either party. We have all been affected by attempts to deal with the small amounts involved in this case, whilst recognising that the small amount is part of a bigger picture.

57. On the point of principle – transparency – the Defendant has been successful. However, on the assessment (including assessment of the Sanders' disbursement) the Claimant has achieved a better result than any offer including an element (albeit reduced) for the Sanders' disbursement. The failure of the Defendant to make any interim payment on account is inexcusable.

58. In all the circumstances I will make a single, composite Costs order on the 2 applications as provided for in the final Order circulated with this Judgment.

Permission to Appeal

59. Permission to appeal is refused. There is no real prospect of success and no other compelling reason why an appeal should be heard.

60. I received written submissions on the Claimant's permission request. It is submitted that I am wrong as a matter of law to require transparency from Claimants in respect of medical agency fees as a proportion of a medical fee disbursement.

61. It is unusual (but not unheard of) for a successful party to seek permission to appeal.

62. The Claimant successfully achieved a CPR36.20 assessment and payment of fixed costs as requested. It was a greater figure than that offered. The assessment included an element for the disputed disbursement (the Sanders' disbursement), cautiously calculated on proportionality grounds in the absence of a detailed breakdown of the disbursement as between medical fees and agency commission. To do otherwise would simply allow medical referral agencies *carte blanche* to charge what they like.

63. Any further application must be made to the King's Bench Division of the High Court.

Alan Saggerson

JUDICIARY OF ENGLAND AND WALES

His Honour Judge Saggerson, Circuit Judge, **County Court at Central London**
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[Court 62; Room 1101]